



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/607,555 06/29/00 MARTIN

C

EXAMINER

PM82/0329

CHRISTOPHER VINCENT MARTIN
P O BOX 6491
SCOTTSDALE AZ 85261

HURLEY, K
ART UNIT

PAPER NUMBER

3619
DATE MAILED:

03/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/607,555

Applicant(s)

MARTIN, CHRISTOPHER V.

Examiner

Kevin Hurley

Art Unit

3619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 3619

DETAILED ACTION

1. An examination of this application reveals that applicant is unfamiliar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

Art Unit: 3619

3. The disclosure is objected to because of the following informalities: the specification uses multiple terms for the same elements repeatedly throughout the specification. For example, element 2 is referred to as "the forward frame", "the frame half", and the "main structural tube". The specification should be amended to use a single consistent term for each element.

Correction is required.

Also, the summary of the invention appears at the end of the specification. The proper order for the specification is as follows:

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a). The title of the invention should be placed at the top of the first page of the specification. It should be brief but technically accurate and descriptive, preferably from two to seven words.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Reference to a "Microfiche Appendix": See 37CFR 1.96(c) and MPEP § 608.05. The total number of microfiche and the total number frames should be specified.
- (e) Background of the Invention: The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

Art Unit: 3619

- (f) Brief Summary of the Invention: A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. This item may also be titled "Best Mode for Carrying Out the Invention." Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet. (37 CFR 1.52(b)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps.
- (j) Abstract of the Disclosure: A brief narrative of the disclosure as a whole in a single paragraph of 250 words or less on a separate sheet following the claims.
- (k) Drawings: See 37 CFR 1.81, 1.83-1.85, and MPEP § 608.02.
- (l) Sequence Listing: See 37 CFR 1.821-1.825.

Art Unit: 3619

4. The abstract of the disclosure is objected to because it contains reference numbers. The reference numbers should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Objections

1. Claims 1-3 are objected to as not being in a single sentence format. Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Manbeck*, 36 USPQ2d 1211 (D.D.C. 1995). See MPEP 608.01(m).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if claim 1 is meant to be a single claim or a pair of claims. At line 14 it recites "the scooter of claim 1..." If this is meant to be a separate claim it must have its own number.

In claim 1 line 6 the phrase "supporting along the longitudinal axis the front steered wheel" does not make grammatical sense.

In claim 8 line 7 it is recited that "the rear driven wheel supported by at least one frame member at the end of main structural member". This would appear to be inaccurate since the

Art Unit: 3619

rear driven wheel 5 is supported by the second frame half 3.

In claim 1 line 8 it is unclear if "a platform" is the same once recited in line 4, if so it -- should be referred to as --the platform--.

In claim 1 line 10 "the frame halves" lacks proper antecedent basis.

It is unclear if claims 2 and 3 are meant to be dependent claims. If they are intended to depend from claim 1 they must contain a reference to the parent claim with a phrase such as "The Motor powered scooter of claim 1, further comprising:".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1 and 3 (as understood) is rejected under 35 U.S.C. 102(e) as being anticipated by Stevenson et al.

Stevenson et al. discloses a motor powered scooter comprising:

a front steered wheel 202;

a rear driven wheel 406;

a platform 701 that supports a standing rider;

a main structural element 34 disposed substantially horizontally along a longitudinal axis

Art Unit: 3619

and supporting the front steered wheel at a forward end thereof, a shock absorbing means 418 operationally connecting a second frame half separated by a pivot 72;

a motor 402 operatively connected to the rear driven wheel which drives the driven wheel;

a head tube 54 formed about a substantially vertical axis to the longitudinal axis, the head tube fastened at the forward end of the main structural element.

6. Claims 1 and 3 (as understood) is rejected under 35 U.S.C. 102(b) as being anticipated by Jackquart.

Jackquart discloses a motor powered scooter comprising:

a front steered wheel 2;

a rear driven wheel 1;

a platform that supports a standing rider;

a main structural element 3 disposed substantially horizontally along a longitudinal axis and supporting the front steered wheel at a forward end thereof, a shock absorbing means 13 operationally connecting a second frame half 7 separated by a pivot 9;

a motor 17 operatively connected to the rear driven wheel which drives the driven wheel;

a head tube 37 formed about a substantially vertical axis to the longitudinal axis, the head tube fastened at the forward end of the main structural element.

Allowable Subject Matter

Art Unit: 3619

7. The following claim, drafted by the examiner and considered to distinguish patentably over the art of record in this application, is presented to applicant for consideration:

4. A motor powered scooter comprising:

a front steered wheel;

a rear driven wheel;

a main structural tube having a head tube mounted to a forward end thereof;

a fork rotatably mounted in said head tube and supporting the front steered wheel;

a platform mounted to a top surface of the main structural tube for supporting a rider thereon;

a bracket mounted at a rear end of the main structural tube and extending through a notch in said platform;

a rear frame half pivotally mounted to the main structural tube and rotationally mounting the rear driven wheel;

a shock absorber pivotally mounted at one end to the bracket, and at another end to the rear frame half;

a motor mounted to the rear frame half and being operationally connected to the rear driven wheel.

5. The motor powered scooter of claim 4, wherein:

the bracket includes a plurality of mounting holes for mounting the shock absorber.

Art Unit: 3619

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patmont '274 and '832 disclose motorized scooters.


9. If applicant continues to prosecute the application, revision of the specification and claims to present the application in proper form is required. While an application can be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Hurley whose telephone number is 703-308-0233.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7687 for regular communications and 703-308-2571 for draft communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

KTH
March 22, 2001

 3/22/01
Kevin Hurley
Primary Examiner
Art Unit 3619